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असाधारण EXTRAORDINARY भाग II-खण्ड 2 PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on 28th July, 1998:—

BILL No. XV of 1998

A Bill further to amend the Foreigners Act, 1946.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Foreigners (Amendment) Act, 1998.

Short title.

Substitution of new sections for section 14.

Penalty for the contravention of the provisions of the Act, etc.

2. For section 14 of the Foreigners Act, 1946, the following sections shall be substituted, namely:—

31 of 1946.

'14. Whoever-

- (a) contravenes such of the provisions of this Act, or of any order made thereunder or any direction given in pursuance of this Act or such order, for contravention of which no specific punishment is provided under this Act; or
- (b) remains in India or in any area therein with or without a valid passport, exceeding the period for which the visa issued to him for such purpose is valid:
- (c) does any act in violation of the conditions of the valid visa issued to him for his entry and stay in India or any part therein,

shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine; and if he has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the convicting Court why such penalty should not be paid by him.

Explanation.— For the purposes of this section, the expression "valid passport" and "valid visa" shall have the same meaning as respectively assigned to them in the Passport (Entry into India) Act, 1920 and the rules made thereunder.

34 of 1920.

Penalty for entry in restricted areas, etc.

14A. Whoever--

- (a) enters into any area in India, which is restricted for his entry under any order made under this Act, or any direction given in pursuance thereof, without obtaining a permit from the authority, notified by the Central Government in the Official Gazette, for this purpose or remains in such area beyond the period specified in such permit for his stay; or
- (b) enters into or stays in any area in India without the valid documents required for such entry or for such stay, as the case may be, under the provisions of any order made under this Act or any direction given in pursuance thereof,

shall be punished with imprisonment for a term which shall not be less than two years, but may extend to eight years and shall also be liable to fine which shall not be less than ten thousand rupees but may extend to fifty thousand rupees; and if he has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3 his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid by him.

Penalty for abetment.

14B. Whoever abets any offence punishable under section 14 or section 14A shall, if the act abetted is committed in consequence of the abetment, be punished with the punishment provided for the offence.

Explanation.—For the purposes of this section,—

- (i) an act or offence is said to be committed in consequence of the abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the offence;
- (ii) the expression "abetment" shall have the same meaning as assigned to it under section 107 of the Indian, Penal Code.'.

45 of 1860.

STATEMENT OF OBJECTS AND REASONS

Contravention of the provisions of the Foreigners Act, 1946, or of any order made thereunder, or of any direction given in pursuance of that Act or such order, is punishable with imprisonment which may extend to five years and fine. The cases under the Foreigners Act are cognizable, non-bailable and triable by the first class Magistrate. However, the accused persons arrested under the said Act very often manage to obtain bail under section 437 of the Code of Criminal Procedure. Further, the Act also does not classify the violation of the various provisions of the Act or order made thereunder or of any direction given in pursuance of that Act or such order and only provides for punishment which may extend to five years and fine. The quantum of punishment for various offences is left to the discretion of the court. It is proposed to classify offences under the Foreigners Act and to provide for punishment depending on the gravity of offence committed. It is also proposed that the maximum punishment under the Foreigners Act may be up to eight years and fine up to Rs. 50,000. The enhancement of punishment will have the following effects, namely:—

- (i) serious offences will become triable by the Court of Sessions; and
- (ii) the court will be required to give notice to the State Government thereby affording it an opportunity to oppose the bail application under proviso to sub-section (1) of section 439 of the Code of Criminal Procedure, 1973.
 - 2. The Bill seeks to achieve the aforesaid objects.

L. K. ADVANI.

R. C. TRIPATHI, Secretary-General.